

## Internal Revenue Service, Treasury

## § 1.1298-0T

X did not make a QEF election with regard to FC. In years 1993 and 1994, FC did not satisfy either the income or the asset test of section 1297(a). In 1998, X acquired additional stock in FC such that X was a U.S. shareholder (as defined in section 951(b)) of FC.

(ii) Because FC qualified as a PFIC in 1991, FC will be treated as a PFIC with respect to all of the stock held by X, under the “once a PFIC always a PFIC” rule of section 1298(b)(1), unless X makes an election to purge the PFIC taint. Because X ceased to satisfy either the income or asset test in 1993, X could have made an election under § 1.1298-3 to purge the PFIC taint of FC for that year if X had filed such an election within the time prescribed under § 1.1298-3(b)(3) or (c)(4). If X had done so, the stock X held in FC would not be treated as stock in a PFIC for the years 1993 and 1994. Because X became a U.S. shareholder of FC in 1998, X then could have made a deemed sale or deemed dividend election under this section to purge the PFIC taint of FC for the years 1995 through 1997 if X had filed within the time prescribed under paragraph (b)(3) or (c)(4) of this section. Accordingly, X may make a late purging election to purge the PFIC taint of FC for the years 1991 and 1992 under the rules of § 1.1298-3(e) and may also make a late purging election to purge the PFIC taint of FC for the years 1995 through 1997 under the rules of this paragraph (e).

(f) *Effective/applicability date.* The rules of this section are applicable as of December 8, 2005.

[T.D. 9360, 72 FR 54821, Sept. 27, 2007, as amended by T.D. 9360, 72 FR 58758, Oct. 17, 2007]

### § 1.1298-0 Table of contents.

This section contains a listing of the paragraph headings for § 1.1298-3.

*§ 1.1298-3 Deemed sale or deemed dividend election by a U.S. person that is a shareholder of a former PFIC.*

- (a) In general.
- (b) Application of deemed sale election rules.
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  - (2) Effect of the deemed sale election.
  - (3) Time for making the deemed sale election.
  - (4) Manner of making the deemed sale election.
  - (5) Adjustments to basis.
  - (6) Treatment of holding period.
- (c) Application of deemed dividend election rules.
  - (1) Eligibility to make the deemed dividend election.
  - (2) Effect of the deemed dividend election.

- (3) Post-1986 earnings and profits defined.
- (4) Time for making the deemed dividend election.
- (5) Manner of making the deemed dividend election.
- (6) Adjustments to basis.
- (7) Treatment of holding period.
- (8) Coordination with section 959(e).
- (d) Termination date.
- (e) Late purging elections requiring special consent.
  - (1) In general.
  - (2) Prejudice to the interests of the U.S. government.
  - (3) Procedural requirements.
  - (4) Time and manner of making late election.
  - (5) Multiple late elections.
  - (f) Effective/applicability date.

[T.D. 9360, 72 FR 54824, Sept. 27, 2007]

### § 1.1298-0T Passive foreign investment company—table of contents (temporary).

This section lists the table of contents for § 1.1298-1T.

*§ 1.1298-1T Section 1298(f) annual reporting requirements for United States persons that are shareholders of a passive foreign investment company (temporary).*

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      - (1) Exception if shareholder is a tax exempt entity.
      - (2) Exception if aggregate value of shareholder's PFIC stock is \$25,000 or less, or value of shareholder's indirect PFIC stock is \$5,000 or less.
        - (i) General rule.
        - (ii) Determination of the \$25,000 threshold in the case of indirect ownership.
        - (iii) Application of the \$25,000 exception to shareholders who file a joint return.
        - (iv) Reliance on periodic account statements.
      - (3) Exception for taxable years ending before December 31, 2013.
    - (d) Time and manner for filing.
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(2) Special rule for shareholders who file a joint return.

(f) Coordination rule.

(g) Examples.

(h) Effective/applicability date.

[T.D. 9650, 78 FR 79609, Dec. 31, 2013]

**§ 1.1298–1T Section 1298(f) annual reporting requirements for United States persons that are shareholders of a passive foreign investment company (temporary).**

(a) *Overview.* This section provides rules regarding the reporting requirements under section 1298(f) applicable to a United States person that is a shareholder (as defined in § 1.1291–1T(b)(7)) of a passive foreign investment company (PFIC). Paragraph (b) of this section provides the section 1298(f) annual reporting requirements generally applicable to United States persons. Paragraph (c) of this section sets forth exceptions to reporting for certain shareholders that are tax exempt entities, that own PFIC stock with an aggregate value of \$25,000 or less, or that own certain PFIC stock with a value of \$5,000 or less, and provides an exception to reporting for all shareholders for taxable years ending before December 31, 2013. Paragraph (d) of this section provides rules regarding the time and manner of filing the annual report. Paragraph (e) of this section sets forth the requirement to file a separate annual report with respect to each PFIC. Paragraph (f) of this section coordinates the requirement to file an annual report under section 1298(f) with the requirement to file an annual report under other provisions of the Internal Revenue Code (Code). Paragraph (g) of this section sets forth examples illustrating the application of this section.

(b) *Requirement to file—(1) General rule.* Except as otherwise provided in this section, a United States person that is a shareholder of a PFIC must complete and file Form 8621, “Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund” (or successor form), under section 1298(f) and these regulations for the PFIC if, during the shareholder’s taxable year, the shareholder—

(i) Directly owns stock of the PFIC;

(ii) Is an indirect shareholder under § 1.1291–1T(b)(8) that holds any interest in the PFIC through one or more entities, each of which is foreign; or

(iii) Is an indirect shareholder under § 1.1291–1T(b)(8)(iii)(D) that is treated under sections 671 through 678 as the owner of any portion of a trust described in section 7701(a)(30)(E) that owns, directly or indirectly through one or more entities, each of which is foreign, any interest in the PFIC.

(2) *Additional requirement to file for certain indirect shareholders—(i) General rule.* Except as otherwise provided in this section, an indirect shareholder that owns an interest in a PFIC through one or more United States persons also must file Form 8621 (or successor form) with respect to the PFIC under section 1298(f) and these regulations if, during the indirect shareholder’s taxable year, the indirect shareholder is—

(A) Treated as receiving an excess distribution (within the meaning of section 1291(b)) with respect to the PFIC;

(B) Treated as recognizing gain that is treated as an excess distribution (under section 1291(a)(2)) as a result of a disposition of the PFIC;

(C) Required to include an amount in income under section 1293(a) with respect to the PFIC (QEF inclusion);

(D) Required to include an amount in income under section 1296(a) with respect to the PFIC (MTM inclusion); or

(E) Required to report the status of a section 1294 election with respect to the PFIC (see § 1.1294–1T(h)).

(ii) *Exception to indirect shareholder reporting for certain QEF inclusions and MTM inclusions.* Except as otherwise provided in this paragraph (b)(2)(ii), the filing requirements under paragraph (b)(2)(i)(C) and (D) of this section do not apply with respect to a PFIC owned by an indirect shareholder described in paragraph (b)(2)(i)(C) or (b)(2)(i)(D) of this section if another shareholder through which the indirect shareholder owns an interest in the PFIC timely files Form 8621 (or successor form) with respect to the PFIC under paragraph (b)(1) or (b)(2) of this section. However, the exception in this paragraph (b)(2)(ii) does not apply with respect to a PFIC owned by an indirect